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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JOHN EDWARDS JIMENEZ, Petitioner, **v.** **M. SMELOSKY, Warden,** Respondent.	08cv0866 W (POR) **MOTION FOR ENLARGEMENT OF TIME TO FILE AN ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS**

Respondent M. Smelosky, by and through counsel, Edmund G. Brown Jr., Attorney General for the State of California and Angela M. Borzachillo, Deputy Attorney General, makes this application for an enlargement of time to file an Answer to the Petition for Writ of Habeas Corpus now pending before this Court.

An Answer is currently due by September 12, 2008. For the reasons stated in the attached Declaration, Respondent respectfully requests a 30-day enlargement of time, until October 12, 2008, in which to file an Answer in the above-entitled matter.

Dated: September 5, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California

DANE R. GILLETTE
Chief Assistant Attorney General

GARY W. SCHONS
Senior Assistant Attorney General

PETER QUON, JR.
Supervising Deputy Attorney General

s/ Angela M. Borzachillo
ANGELA M. BORZACHILLO
Deputy Attorney General
Attorneys for Respondent

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DECLARATION

I, Angela M. Borzachillo, declare under penalty of perjury as follows:

1. I am the Deputy Attorney General assigned to prepare an Answer to the Petition for a Writ of Habeas Corpus now pending before this Court.

2. I have requested no previous enlargements of time in this matter.

3. I am requesting a thirty-day enlargement of time for the following reasons.

4. I have determined that an Answer is appropriate in this matter.

5. The record in the case was ordered, delivered and is being copied in preparation for the Lodgments.

6. During the past two months, Declarant completed work and/or filed Respondent's Briefs in *People v. Gomez,* California Court of Appeal, Fourth Appellate District No. G039092, *People v. McDonald*, California Court of Appeal, Fourth Appellate District No. E041792, and *People v. Peyton*, California Court of Appeal, Fourth Appellate District No. E044069, and in federal habeas corpus matters, a motion to dismiss in *Allen v. Scribner*, United States District Court, Southern District No. 07CV1746 and a memorandum and motion to dismiss in *Armstrong v. Hedgpeth*, United States District Court, Central District No. 08CV695. Declarant also prepared for and orally argued in *People v. Mosley*, California Court of Appeal, Fourth Appellate District No. G038379. Declarant was also involved in reviewing briefs for other deputies.

7. In addition to this case, Declarant has Respondent's Briefs due in pending direct appeals in *People v. Williams,* California Court of Appeal, Fourth Appellate District No. D051969, a case with an inordinately large record, *People v. Means,* California Court of Appeal, Fourth Appellate District No. E045158, *People v. Weaver,* California Court of Appeal, Fourth Appellate District No. D052603 and *People v. Brown*, California Court of Appeal, Fourth Appellate District No. G040059, and responses due in federal habeas matters, *McLellan v. Almager*, United States District Court, Central District No. 08CV802, and *Jimenez v. Dexter,* United States District Court, Southern District No. 08CV1322, and Declarant is awaiting a briefing schedule in Ninth Circuit Court of Appeals in *Sanchez v. Evans,* No.08-55575.

8. In light of prior commitments, I expect to begin working on the Answer in this case in approximately thirty days.

9. In order to properly represent Respondent, and ensure the Answer will effectively assist in the resolution of Petitioner's claims, I respectfully request this Court grant an enlargement of time to file an Answer, that is, until October 12, 2008.

10. I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 5, 2008, in San Diego, California.

s/ Angela M. Borzachillo
ANGELA M. BORZACHILLO
Deputy Attorney General

Attorney for Respondent

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Jimenez v. Smelosky** No.: **08cv0866 W (POR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 5, 2008, I served the attached **motion for enlargement of time to file answer to petition for writ of habeas corpus and order granting enlargment of time** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West "A" Street, Suite 1100, San Diego, California 92101, addressed as follows:

John Edwards Jimenez
Centinela State Prison
#F-06755
Post Office Box 921
Imperial CA 92251

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 5, 2008, at San Diego, California.

Kimberly Wickenhagen [signature]

Declarant Signature